AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

§ 1631.7 Initial determination.

The FOIA Officer shall have the authority to approve or deny requests received pursuant to these regulations. The decision of the FOIA Officer shall be final, subject only to administrative review as provided in § 1631.10.

§ 1631.8 Prompt response.

(a)(1) When the FOIA Officer receives a request for expedited processing, he or she will determine within 10 work days whether to process the request on an expedited basis.

(2) When the FOIA Officer receives a request for records which he or she, in good faith, believes is not reasonably descriptive, he or she will so advise the requester within 5 work days. The time limit for processing such a request will not begin until receipt of a request that reasonably describes the records being sought.

(b) The FOIA Officer will either approve or deny a reasonably descriptive request for records within 20 work days after receipt of the request, unless additional time is required for one of the following reasons:

(1) It is necessary to search for and collect the requested records from other establishments that are separate from the office processing the request (e.g., the record keeper);

(2) It is necessary to search for, collect, and examine a voluminous amount of records which are demanded in a single request;

(3) It is necessary to consult with another agency which has a substantial interest in the determination of the request or to consult with two or more offices of the Board which have a substantial subject matter interest in the records; or

(4) It is necessary to devote resources to the processing of an expedited request under § 1631.6(f).

(c) When additional time is required for one of the reasons stated in paragraph (b) of this section, the FOIA Officer will extend this time period for an additional 10 work days by written notice to the requester. If the Board will be unable to process the request within this additional time period, the requester will be notified and given the opportunity to—

(1) Limit the scope of the request; or

(2) Arrange with the FOIA Officer an alternative time frame for processing the request.

[63 FR 41708, Aug. 5, 1998]

§ 1631.9 Responses—form and content.

(a) When a requested record has been identified and is available, the FOIA officer shall notify the person making the request as to where and when the record is available for inspection or that copies will be made available. The notification shall also advise the person making the request of any fees assessed under § 1631.13 of this part.

(b) A denial or partial denial of a request for a record shall be in writing signed by the FOIA Officer and shall include:

(1) The name and title of the person making the determination;

(2) A statement of fees assessed, if any; and

(3) A reference to the specific exemption under the FOIA authorizing the withholding of the record, and a brief explanation of how the exemption applies to the record withheld; or

(4) If appropriate, a statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed by § 1631.8, and that the denial will be reconsidered as soon as the search or examination is complete; and

(5) A statement that the denial may be appealed to the Executive Director within 30 calendar days of receipt of the denial or partial denial.

(c) If, after diligent effort, existing requested records have not been found, or are known to have been destroyed or otherwise disposed of, the FOIA Officer shall so notify the requester.

[55 FR 41052, Oct. 9, 1990, as amended at 79 FR 68094, Nov. 14, 2014]

§ 1631.10 Appeals to the Executive Director from initial denials.

(a) When the FOIA Officer has denied a request for expedited processing or a request for records, in whole or in part, the person making the request may, within 30 calendar days of receipt of

the response of the FOIA Officer, appeal the denial to the Executive Director. The appeal must be in writing, addressed to the Executive Director, Federal Retirement Thrift Investment Board, 77 K Street NE., Suite 1000, Washington, DC 20002, and be clearly labeled as a ''Freedom of Information Act Appeal.''

(b)(1) The Executive Director will act upon the appeal of a denial of a request for expedited processing within 5 work days of its receipt.

(2) The Executive Director will act upon the appeal of a denial of a request for records within 20 work days of its receipt.

(c) The Executive Director will decide the appeal in writing and mail the decision to the requester.

(d) If the appeal concerns an expedited processing request and the decision is in favor of the person making the request, the Executive Director will order that the request be processed on an expedited basis. If the decision concerning a request for records is in favor of the requester, the Executive Director will order that the subject records be promptly made available to the person making the request.

(e) If the appeal of a request for expedited processing of records is denied, in whole or in part, the Executive Director's decision will set forth the basis for the decision. If the appeal of a request for records is denied, in whole or in part, the Executive Director's decision will set forth the exemption relied on and a brief explanation of how the exemption applies to the records withheld and the reasons for asserting it, if different from the reasons described by the FOIA Officer under §1631.9. The denial of a request for records will state that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in Federal court. (A Federal court does not have jurisdiction to review a denial of a request for expedited processing after the Board has provided a complete response to the request.)

(f) No personal appearance, oral argument, or hearing will ordinarily be permitted in connection with an appeal of a request for expedited processing or an appeal for records.

(g) On appeal of a request concerning records, the Executive Director may reduce any fees previously assessed.

[79 FR 68094, Nov. 14, 2014]

§1631.11 Fees to be charged—categories of requesters.

(a) There are four categories of FOIA requesters; commercial use requesters; representatives of news media; educational and noncommercial scientific institutions; and all other requesters. The Freedom of Information Reform Act of 1986 prescribes specific levels of fees for each of these categories:

(1) When records are being requested for commercial use, the fee policy of the Board is to levy full allowable direct cost of searching for, reviewing for release, and duplicating the records sought. Commercial users are not entitled to two hours of free search time, nor 100 free pages of reproduction of documents, nor waiver or reduction of fees, based on an assertion that disclosure would be in the public interest. The full allowable direct cost of searching for, and reviewing, records will be charged even if there is ultimately no disclosure of records. Commercial use is defined as a use that furthers the commercial trade or profit interests of the requester or person on whose behalf the request is made. In determining whether a requester falls within the commercial use category, the Board will look to the use to which a requester will put the documents requested.

(2) When records are being requested by representatives of the news media, the fee policy of the Board is to levy reproduction charges only, excluding charges for the first 100 pages. The phrase ''representatives of the news media'' refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances where they can qualify as disseminators of news) who make their products available for purchase or subscription